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Attorneys for Plaintiff
One North Lexington Avenue
White Plains, New York 10601
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Mitchell J. Baker (MB-4339)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LINDA DiMEGLIO,	:	07 Civ. 3324 (SCR)
	:	
Plaintiff,	:	
	:	
-against-	:	NOTICE OF
	:	<u>MOTION</u>
VILLAGE OF BRIARCLIFF MANOR,	:	
	:	
Defendant.	:	

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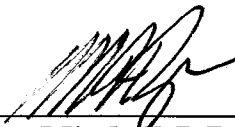
S I R S:

PLEASE TAKE NOTICE that upon the annexed affidavit of Mitchell J. Baker, sworn to August 8, 2007, the annexed exhibits, and all the proceedings heretofore had herein, plaintiff Linda DiMeglio will move this Court, on the 15th day of August, 2007 at 9:30 a.m. or as soon thereafter as counsel can be heard, for an Order pursuant to FRCP 55(b)(2) granting Ms. DiMeglio Judgment against the Village of Briarcliff Manor as to liability and setting down a hearing from an

disbursements.

Dated: White Plains, New York
August 8, 2007

**BAKER, LESHKO,
SALINE & BLOSSER, LLP**
Attorneys for Plaintiff

By: 

Mitchell J. Baker (MB-4339)
One North Lexington Avenue
White Plains, New York 10601
914.681.9500

To: Rutherford & Christie, LLP
300 East 42nd Street
New York, New York 10017-5947

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White Plains, New York 10601
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LINDA DiMEGLIO,	:	07 Civ. 3324 (SCR)
	:	
Plaintiff,	:	
	:	
-against-	:	<u>AFFIDAVIT</u>
	:	
VILLAGE OF BRIARCLIFF MANOR,	:	
	:	
Defendant.	:	

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MITCHELL J. BAKER, being duly sworn, deposes and says:

1. I am counsel to plaintiff Linda DiMeglio, the within plaintiff. I submit this affidavit in support of the instant application for a default judgment against the defendant the Village of Briarcliff Manor pursuant to FRCP 55(b)(2).
2. This is an action for sex discrimination under Title VII. Ms. DiMeglio, a female Police Officer with the Village of Briarcliff Manor (the "Village") Police Department was denied certain benefits under New York State

strikingly similar circumstances. (A copy of the Complaint, filed April 26, 2006, is annexed hereto as Exhibit “A”).

3. The Summons and Complaint was personally served upon the Village Clerk of the Village on April 26, 2007. (A copy of the Affidavit of Service of Mitchell J. Baker, sworn to April 27, 2007, is annexed hereto as Exhibit “B”).

4. By letter dated May 16, 2007, the firm of Rutherford & Christie, LLP wrote your Honor a letter requesting permission to make a motion to dismiss pursuant to FRCP 12(b).

5. On May 17, 2006, your Honor endorsed such letter and allowed defendant to make such a motion and directed that the parties submit a proposed briefing schedule. (A copy of the letter of Rutherford & Christie, LLP, dated May 16, 2007, endorsed by your Honor on May 17, 2007, is annexed hereto as Exhibit “C”).

6. On June 11, 2007, I wrote a letter to Rutherford & Christie, LLP advising them of a proposed briefing schedule for the motion. (A copy of my letter to Rutherford & Christie, LLP, dated June 11, 2007, is annexed hereto as Exhibit “D”).

7. Having not heard from Rutherford & Christie, LLP, I again wrote them on June 25, 2007. In such letter I advised them, among other things, that

to Rutherford & Christie, LLP, dated June 25, 2007, is annexed hereto as Exhibit “E”).

8. On July 20, 2007, I appeared before your Honor at the scheduled conference. No one from Rutherford & Christie, LLP appeared at the conference.

9. Your Honor then issued an Order, dated July 20, 2007, directing that “counsel for defendant shall notice an appearance in this matter no later than August 3, 2007” and set forth a briefing schedule for the proposed motion. (A copy of the Order of this Court, dated July 20, 2007, is annexed hereto as Exhibit “F”).

10. On July 20, 2007, the Court also entered a Minute Entry in the Docket Sheet stating that if “no motion filed by 8/3/07 by the deft, plaintiff will file motion as necessary.” (A copy of the Docket Sheet in this matter, dated August 9, 2007, is annexed hereto as Exhibit “G”).

11. I have not received any formal appearance nor have I received any motion in this matter.

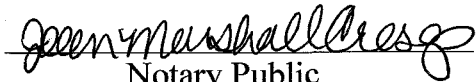
12. In accordance with the Order of this Court and the Minute Entry, I respectfully request that this Court enter a Judgment granting Ms. DiMeglio a default judgment as to liability and directing that a hearing be had to assess the

and for legal fees and costs.



MITCHELL J. BAKER

Sworn to before me this
8th day of August, 2007


Notary Public

JOAN MARSHALL CRESAP, ESQ.
NOTARY PUBLIC, State of New York
No. 4965905
Qualified in Westchester County
Commission Expires April 30, 2010